

**Enrolled Minutes of the Seventeenth Regular or Special Meeting
For the Twenty-Seventh Highland Town Council
Regular Meeting
Monday, August 27, 2012**

Study Session. The Twenty-Seventh Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, August 27, 2012 at 6:40 o'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Dan Vassar, Brian Novak and Konnie Kuiper were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council discussed the agenda of the imminent regular meeting.
2. The Town Council discussed and consented to removing from consideration the letter submitted by the Redevelopment Commission for future consideration.

The study session ended at 7:01 O'clock p.m.

Regular meeting. The Twenty Seventh Town Council of the Town of Highland, Lake County, Indiana met in its regular (rescheduled) session on Monday, August 27, 2012 at 7:03 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Council President Bernie Zemen presided and the Town Clerk-Treasurer, Michael W. Griffin, was present to memorialize the proceedings.

Council President Zemen recited the Pledge of Allegiance to the Flag of the United States of America and offered a prayer.

Roll Call: Present on roll call were Councilors Bernie Zemen, Mark Herak, Dan Vassar, Konnie Kuiper and Brian Novak. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: Rhett L. Tauber, Town Attorney; John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; Kenneth J. Mika, Building Commissioner; Alex M. Brown, CPRP, Parks and Recreation Superintendent; William R. Timmer, CFOD, and Cecile Petro, Redevelopment Director were present.

Also present: Ed Dabrowski IT Director (Contract); and Keith Bruxvoort, Board of Waterworks Directors were also present.

Minutes of the Previous Meetings

The minutes of the regular meeting of August 13, 2012 were approved by general consent.

Special Orders:

1. **Public Hearing on a Petition to Vacate a Public Way or Easement.** Petition filed by John and Julie Zandstra, 3052 Lincoln Street, Highland, requesting the vacation of public way, a platted easement located at the back of his property listed at the same address, pursuant to IC 36-7-3-12 (c). Petition filed 14 August 2012.
 - (a) Review of Proofs of Publication: TIMES 16 August 2012. (*Mailing to six properties listed in petition. Certificates of mailing provided*) The Town Attorney indicated that the proofs of publication were in compliance with IC 5-3-1 and IC 36-7-3-12(c) (2).

(b) **Public Hearing** on the Petition as filed. The Town Council Hearing was called to order by the Town Council President.

1. Jack Davids, representing himself as the listed broker for the petitioners, spoke on behalf of John and Julie Zandstra, favoring the petition for vacation.

The Town Council President closed the hearing.

(c) Consideration of proposed **Ordinance No. 1519**: An Ordinance to vacate a Public Way or Easement.

Councilor Kuiper introduced and moved the consideration of Ordinance No. 1519 at the same meeting of introduction. Councilor Vassar seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance could be considered at the meeting of its introduction.

Councilor Vassar moved the passage and adoption of Ordinance No. 1519 at the same meeting of introduction. Councilor Kuiper seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance was passed and adopted at the meeting of its introduction.

ORDINANCE No. 1519
of the
TOWN OF HIGHLAND, INDIANA

AN ORDINANCE VACATING A PUBLIC WAY, PLACE OR EASEMENT PURSUANT TO INDIANA CODE 36-7-3 CHAPTERS 12 AND 16.

WHEREAS, The Town Council of the Town of Highland is the Municipal Legislative Body of the unit; and

WHEREAS, **John and Julie Zandstra**, have filed a petition with the Clerk-Treasurer as clerk of the municipal legislative body, requesting a public hearing on the matter of vacation of a public way, place or easement, the legal description of which is set forth herein; and

WHEREAS, The municipal clerk has caused through the petitioner, notice to be given in the manner prescribed in I.C. 5-3-1, as well as by certified mail to each owner of land that abuts the property proposed to be vacated, and such hearing has been conducted; and

WHEREAS, The Town Council desires to execute a vacation of the aforementioned public way, place or easement pursuant to Indiana Code 36-7-3 *et sequitur*;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Highland, as follows:

Section 1. That the Town of Highland, by and through its Town Council of the Town of Highland, Lake County, Indiana hereby vacates and forever releases all right, title and interest in and to the following described public way, place or easement to **John and Julie Zandstra, 3052 Lincoln Street, Highland, Lake County, Indiana**:

A public way which is a portion of an easement that abuts and is contiguous to the rear of the petitioner's property located at **3052 Lincoln Street**, Highland, Lake County, Indiana, which public way or easement is further described as follows:

PARCEL 1: PART OF LOT 1, BLOCK 1 IN FIFTH STREET ESTATES FIRST ADDITION TO THE TOWN OF HIGHLAND, AS SHOWN IN PLAT BOOK 31, PAGE 57, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 1, 20 FEET EAST OF THE SOUTHWEST CORNER THEREOF; THENCE, EAST ALONG SAID SOUTH LINE 80 FEET; THENCE NORTH AT RIGHT ANGLES TO SAID SOUTH LINE 51.94 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 1; THENCE NORTHWESTERLY ALONG SAID EASTERLY LINE 105.16 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE WEST, ALONG THE NORTH LINE OF SAID LOT 1, 15.50 FEET; THENCE SOUTH 135.0 FEET TO THE PLACE OF BEGINNING.

PARCEL 2: PART OF LOT 1 IN BLOCK 1 IN PETTIT PARK 1ST ADDITION TO THE TOWN OF HIGHLAND, AS SHOWN IN PLAT BOOK 31, PAGE 26, IN LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 1, 64.50 FEET; THENCE SOUTH AT RIGHT ANGLES TO SAID NORTH LINE, 83.06 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 1; THENCE NORTHWESTERLY, ALONG SAID WESTERLY LINE, 105.16 FEET TO THE PLACE OF BEGINNING.

Section 2. That the Town Council further finds and determines:

(A) That the vacation would not hinder growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous;

(B) That the vacation would not make access to the contiguous lands or lands of any aggrieved persons by means of a public way or easement difficult or inconvenient;

(C) The vacation would not hinder the public's access to a church, school, or other public building or place;

(D) The vacation would not hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous;

Section 3. That this ordinance will be in full force and effect from and after its passage and adoption, subject and pursuant to provisions of I.C. 37-7-3-12(f).

Introduced and Filed on the 27th day of August 2012. Consideration at the same meeting of introduction experienced a vote of 5 in Favor and 0 Opposed, pursuant to I.C. 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 27th day of August 2012, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Advisory Board of Zoning Appeals Docket:** Petition for a Use Variance for property located at **2806 Franklin Avenue, Highland**, to allow its use as single family residential, in property previously used for business purposes and which is currently zoned as B-2 Zoned District Downtown Sub district. Petitioner: Steve/Kenneth Takacs. The Advisory Board of Zoning Appeals by a vote of four (4) in favor, one abstention, and 0 opposed acted to **favorably recommend the request for the use variance**. The ABZA acted at its meeting of 25 July 2012. The findings of fact were memorialized and the board approved the facts in written form at its meeting of 22 August 2012. (90 days ends 23 October 2012).

*Pursuant to IC 36-7-4-918.6, the Town Council may either **accept the favorable recommendation** and grant the requested use variance or it may **reject (over rule) the favorable recommendation** and deny the use variance.*

Councilor Herak moved, seconded by Councilor Novak that the favorable recommendation of the Advisory Board of Zoning appeals be accepted and the use variance be granted as requested by the petitioners. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The use variance was granted.

3. **Executive Proclamation:** A Proclamation in Recognition of September 2012 as Childhood Cancer Awareness Month in the Town of Highland. The Town Clerk-Treasurer read aloud the enrolled proclamation and the Town Council President adopted it and affixed his signature.

**TOWN OF HIGHLAND
PROCLAMATION OF the TOWN EXECUTIVE**

A PROCLAMATION IN RECOGNITION OF SEPTEMBER 2012 AS CHILDHOOD CANCER AWARENESS MONTH

WHEREAS, An estimated 13, 500 children are diagnosed with cancer every year in the United States alone;

WHEREAS, On the average, one in every four elementary schools has a child with cancer. The average high school has two students who are current or former cancer patients;

WHEREAS, Childhood cancer occurs regularly, randomly and spares no ethnic group, socioeconomic class, or geographic region;

WHEREAS, In the United States, the incidence of cancer among adolescents and young adults is increasing at a

greater rate than any other age group, except those over 65 years;

WHEREAS, An estimated 2,555 children die each year of cancer in the United States alone;

WHEREAS, Cancer is the number one killer of our children by disease;

WHEREAS, The average age of death for a child with cancer is 8, causing a child to lose 69 years of expected life;

WHEREAS, Many children with rare and aggressive cancers are already Stage IV at diagnosis;

WHEREAS, Three out of five childhood cancer survivors experience long term/late effect from treatment;

WHEREAS, Despite these facts, childhood cancer research is vastly and consistently underfunded;

WHEREAS, In twenty years the FDA has initially approved only two drugs for any childhood cancer;

WHEREAS, Half of all chemotherapies used for children's cancers are over 25 years old;

WHEREAS, Research and development for new drugs from pharmaceutical companies comprises 60% of funding for adult cancer drugs and close to zero for childhood cancers;

WHEREAS The NCI spends 96% of its budget on adult cancers and only 4% of its budget on children's cancers;

WHEREAS, The causes of most childhood cancers are unknown and at present, childhood cancer cannot be prevented;

WHEREAS, Emotional support and financial assistance is not always readily available to local families;

WHEREAS, Families who are or have been in treatment work tirelessly to change these alarming statistics;

Now, Therefore, I, Bernie Zemen, by virtue of the authority vested in me as President of the Town Council of the Town of Highland, Lake County, Indiana, now hereby proclaim September 2012, as **Childhood Cancer Awareness Month** in the Town of Highland;

Be it Further Proclaimed, That the residents of Highland are hereby encouraged to pause and increase their awareness of Childhood Cancer and its effects;

In Witness Whereof, I have hereunto set my hand and caused the Corporate Seal to be affixed at the Highland Municipal Building this 27th day of August in the year, 2012.

**TOWN of HIGHLAND, INDIANA
BY ITS TOWN COUNCIL PRESIDENT**

/s/Bernie Zemen

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer

Communications:

1. **Controlled Event Permit Request.** Action regarding a letter presenting a request for permission to conduct a beer garden on a public way submitted by Chamber of Commerce for the Midwest Zest Fest, September 7 through September 9, 2012. *This is a controlled event under Chapter 119. Section §119.02 requires action by the Town Council in an open regular or special session. Request is filed timely as it is filed at least 60 days before the desired event but was just presented to the Town Clerk-Treasurer. The Council will also need to fix the amount of liability insurance, pursuant to § 119.02 (D). Pursuant to that section, the Town Council has previously directed that the applicant procure liability insurance for the event which names the Town of Highland as an additional insured in the amount of Three million dollars (\$3,000,000) and provide a certificate or proof of this insurance before the event. (This matter was taken up at the Town Council meeting of August 13, 2012. By a three to two vote, the request was denied. Pursuant to Section § 30.23 (E) of the Municipal Code, the Town Council President placed this matter on this agenda for reconsideration.)*

Councilor Herak moved, seconded by Councilor Novak to grant the Controlled Event Permit as requested by the Highland Chamber of Commerce. Upon a roll call vote, there were three affirmatives and two negatives. With Councilors Zemen and Novak voting in the affirmative; and Councilor Herak passing on the first round of voting then voting in the affirmative on second call, as well as Councilors Kuiper and Vassar voting in the negative, the motion passed. The Controlled Event Permit was granted.

2. Letter from the Redevelopment Commission reporting its recommendation to eliminate a sidewalk planned for the easement on the east side of U.S. 41. *(This matter was presented to the Town Council at its meeting of August 13, 2012. The Town Council informally delayed its consideration to allow the Town Council President to get additional information.)*

The Town Council President allowed that if there was no objection, this matter would not be considered at this meeting.

Appointments:

- **Statutory Boards and Commissions** *(Resolution supplied)*

Legislative or Fiscal Body Appointments made by Town Council

1. Action to ratify the withdrawal of Councilor Novak and the appointment of Councilor Zemen to the Board of Directors of the **Solid Waste Management District**, for the meeting of August 16, 2012, and upon its adjournment, reappointing Councilor Novak, all pursuant to IC 13-21-3-5(d)(4) & 8.

Special Appointment Resolution No. 2012-39: AN APPOINTMENT RESOLUTION REGARDING HIGHLAND'S MEMBER OF THE LAKE COUNTY SOLID WASTE MANAGEMENT DISTRICT, all pursuant to IC 13-21-3-5 (d)(4) and IC 13-21-3-8.

Councilor Herak moved the passage and adoption of the special resolution. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

HIGHLAND TOWN COUNCIL Special Appointment Resolution No 2012-39

AN APPOINTMENT RESOLUTION REGARDING HIGHLAND'S MEMBER OF THE LAKE COUNTY SOLID WASTE MANAGEMENT DISTRICT, all pursuant to IC 13-21-3-5 (d)(4) and IC 13-21-3-8.

WHEREAS, IC 13-21-3 sections 5(d) and 8 provides for a single appointment of the legislative body from its membership to the Lake County Solid Waste Management District Board of Directors, with such appointment being at the pleasure of the appointing authority;

WHEREAS, The legislative body as appointing authority has been made aware that its appointee owing to a schedule conflict could not attend a particular meeting and sought a person to stand in his stead; and

WHEREAS The legislative body, wishes to preserve its presence on the Lake County Solid Waste Management District Board of Directors, and take action to perfect the temporary appointment according to IC 13-21-3-5 (d)(4), under its authority of IC 13-21-3-8,

BE IT HEREBY RESOLVED by the Highland Town Council, which is the legislative Body of the Town as follows:

Section 1. That for the Lake County Solid Waste Management District Board of Directors' meeting of August 16, 2012, it is the pleasure of the appointing authority that the appointment of Councilor Brian Novak be hereby withdrawn, and that Councilor Bernie Zemen be duly appointed;

Section 2. That at the conclusion of the meeting, it is the pleasure of this Council as appointing authority that the appointment of Councilor Zemen expire and Councilor Novak be reinstated, all pursuant to IC 13-21-3-5 (d)(4) and IC 13-21-3-8;

Section 3. That both appointees are members of the legislative body and qualified according to the terms of the enabling statute, and with this resolution, the appointing authority further perfects the appointment of the member representing the Town of Highland for the LCSWMD Board of Directors meeting of August 16, 2012 and thereafter;

Section 4. That all actions taken in advance of the approval of this resolution in furtherance of the objects and purposes of it are hereby ratified, all pursuant to IC 36-1-4-16;

Section 5. That in addition to filing this resolution with the records of the municipality, the appointing authority requests the Clerk-Treasurer to transmit a copy of this resolution to the proper officer of the Lake County Solid Waste Management District for its information and file.

DULY RESOLVED and ADOPTED this 27th Day of August 2012 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of

HIGHLAND, INDIANA

Bernie Zemen, **President** (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

Unfinished Business and General Orders:

1. **Proposed Ordinance No. 1517:** An Ordinance to Amend Chapter 177 of the Highland Municipal Code, regarding Public Works Projects, all pursuant to IC 36-1-4, IC 36-1-5 and IC 36-1-12 et sequitur.
2. **Proposed Ordinance No. 1518:** An Ordinance to Amend the Purchasing Code to Bring it into Compliance with Changes Codified in IC 5-22 et seq.

It was noted that these ordinances were intended to amend the existing public works and purchasing codes to reflect the relative changes in State law as to bidding thresholds and related matters.

Councilor Herak introduced and moved the consideration at the same meeting of Ordinance No. 1517 and Ordinance No. 1518. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinances could be considered at the same meeting of their introduction.

Councilor Herak moved the passage and adoption at the same meeting of Ordinance No. 1517 and Ordinance No. 1518. Councilor Novak seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. Ordinance No. 1517 and No. 1518 were passed and adopted at the same meeting of their introduction.

**ORDINANCE No. 1517
of the
TOWN of HIGHLAND, INDIANA**

An Ordinance to Amend Chapter 177 of the Highland Municipal Code, regarding Public Works Projects, all pursuant to I.C. 36-1-4, IC 36-1-5, and IC 36-1-12 et sequitur.

Whereas, The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

Whereas, The Town of Highland, is a municipality located in Lake County which operates a Government, which is governed by the provisions of IC 36-5 et seq.; and,

Whereas, The Town of Highland, by and through its Town Council adopted Ordinance No. 1446, enacted and restated its Public Works Projects Code, first introduced on December 14, 2009 and finally passed on July 19, 2010, further amending it by the passage and adoption of Ordinance No. 1494, introduced and adopted at the same meeting of May 23, 2011; and,

Whereas, The Indiana General Assembly amended provisions of the Public Works Law, making it desirable for the local public works code to be amended consistent with the changes to the statute.; and,

Whereas, The Town of Highland, through its Town Council now wishes to still further perfect its own organization make certain amendments to the Highland Municipal Code, regarding public works and contractors, pursuant to IC 36-1-12 and other relevant law,

Now, Therefore, Be it hereby ordained by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Highland Municipal Code is amended by the repeal of Section §177.02 of the Highland Municipal Code in its entirety, and to be amended by a successor section also to be named Section §177.02, which shall read as follows:

§ 177.02 PUBLIC WORKS PROJECTS.

(A) The board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work, by means of its own workforce, without awarding a contract whenever the cost of that public work project *is estimated to be less than one hundred thousand dollars (\$100,000) one hundred fifty thousand dollars (\$150,000)*. Before a board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work. For purposes of this subsection, the cost of a public work project includes the actual cost of materials, labor, equipment, rental, a reasonable rate for use of trucks and heavy equipment owned, and all other expenses incidental to the performance of the project.

(B) The municipal workforce may perform a public work described in Section §177.02(A) only if, (1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and (2) for a public work project under Section §177.02(A) whose cost is estimated to be more than one hundred thousand dollars (\$100,000), the board:

- (1) publishes a notice under IC 5-3-1 that describes the public work that the board intends to perform with its own workforce; and sets forth the projected cost of each component of the public work as described in Section §177.02(A); and**
- (2) determines at a public meeting that it is in the public interest to perform the public work with the board's own workforce.**

(C) A public work project performed by a board's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bid

~~(B)~~ **(D)** When the project involves the rental of equipment with an operator furnished by the owner, or the installation or application of materials by the supplier of the materials, the project is considered to be a public work project and subject to this chapter. However, an annual contract may be awarded for equipment rental and materials to be installed or applied during a calendar or fiscal year if the proposed project or projects are described in the bid specifications. **(Confer with IC 36-1-12-3.)**

Section 2. That the Highland Municipal Code is amended by the repeal of Section §177.09 of the Highland Municipal Code in its entirety, and to be amended by a successor section also to be named Section §177.09, which shall read as follows:

§ 177.09 PARTICULAR PROCEDURES INVOLVING PUBLIC WORKS THAT COST AT LEAST \$150,000; ADDED RULES FOR PROJECTS ~~OF \$100,000 OR LESS THAN OR AT LEAST \$25,000,000.~~

(A) Whenever the cost of a project will be at least one hundred fifty thousand dollars (\$150,000), the board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the project involves the resurfacing (as defined by IC 8-14-2-1) of a road, or street the specifications must show how the weight or volume of the materials will be accurately measured and verified.

(B) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (C).

(C) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for sealed proposals for the public work needed.

(D) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.

(E) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board, but it may not be more than six (6) weeks if the estimated cost of the public works project is less than twenty-five million dollars (\$25,000,000); and not more than ten (10) weeks in the event the estimated cost of the project is at least twenty-five million dollars (\$25,000,000).

(F) ~~If the cost of a project is one hundred thousand dollars (\$100,000) or more,~~ The board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state board of accounts.

(G) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received shall be opened publicly and read aloud at the time and place designated and not before. Notwithstanding any other law, bids may be opened after the time designated if both of the following apply:

- (1) The board makes a written determination that it is in the best interest of the board to delay the opening;**
- (2) The day, time, and place of the rescheduled opening are announced at the day, time and place of the originally scheduled opening.**

(H) The board shall either: (1) award the contract for public work or improvements to the lowest responsible and responsive bidder; or (2) reject all bids submitted.

- (I) If the board awards the contract to a bidder other than the lowest bidder, the board must state in the minutes or memoranda, at the time the award is made, the factors used to determine which bidder is the lowest responsible and responsive bidder and to justify the award. The board shall keep a copy of the minutes or memoranda available for public inspection.
- (J) In determining whether a bidder is responsive, the board may consider the following factors:
- (1) Whether the bidder has submitted a bid or quote that conforms in all material respects to the specifications.
 - (2) Whether the bidder has submitted a bid that complies specifically with the invitation to bid and the instructions to bidders.
 - (3) Whether the bidder has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.
- (K) In determining whether a bidder is a responsible bidder, the board may consider the following factors:
- (1) The ability and capacity of the bidder to perform the work.
 - (2) The integrity, character, and reputation of the bidder.
 - (3) The competence and experience of the bidder.
- (L) The board shall require the bidder to submit an affidavit:
- (1) that the bidder has not entered into a combination or agreement: (a) relative to the price to be bid by a person; (b) to prevent a person from bidding; or (c) to induce a person to refrain from bidding; and (2) that the bidder's bid is made without reference to any other bid.

Section 3. That the Highland Municipal Code is amended by the repeal of Section §177.17 of the Highland Municipal Code in its entirety, and to be amended by a successor section also to be named Section §177.17, which shall read as follows:

§ 177.17 PROCEDURE FOR ACCEPTING QUOTES

- (A) This section applies whenever a public work project is estimated to cost at least ~~twenty five thousand dollars (\$25,000)~~ **fifty thousand dollars (\$50,000)** and less than ~~one hundred- fifty thousand dollars (\$50,000)~~ **(\$150,000)**.
- (B) The board must proceed under the following provisions:
- (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.
 - (2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.
 - (3) The board shall award the contract for the public work to the lowest responsible and responsive quoter.
 - (4) The board may reject all quotes submitted.

Section 4. Schedule of Implementation. The provisions of this ordinance shall become and be in full force and effect from and after the date of its passage and adoption upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication in the manner provided by IC 36-1-5 and IC 5-3-1, if applicable.

Introduced and Filed on the 27th day of August 2012. Consideration on same day or at same meeting of introduction experienced a vote of 5 in favor and 0 opposed, all pursuant to IC 36-5-2-9.8.

ADOPTED this 27th day of August 2012 by the Town Council of the Town of Highland, Lake County, Indiana, by a vote of 5 in favor of adoption and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**
Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**ORDINANCE No. 1518
of the
TOWN of HIGHLAND, INDIANA**

AN ORDINANCE to AMEND the PURCHASING CODE to BRING INTO COMPLIANCE WITH CHANGES CODIFIED IN IC 5-22 et seq.

Whereas, The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

Whereas, The Town of Highland, is a municipality located in Lake County which operates a Government, which is governed by the provisions of IC 36-5 et seq.; and,

Whereas, The Town of Highland, by and through its Town Council adopted Ordinance No. 1089, enacted its Purchasing Code, introduced and adopted at the same meeting of June 22, 1998, with further amendments made by Ordinance No. 1513, introduced and adopted at the same meeting of June 25, 2012; and,

Whereas, The Indiana General Assembly amended provisions of the purchasing law, making it desirable for the local purchasing code to be amended consistent with the changes to the statute.; and,

Whereas, The Town of Highland, through its Town Council now wishes to still further perfect its own organization make certain amendments to the Highland Municipal Code, regarding purchasing, pursuant to IC 5-22 et seq., and other relevant law,

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That Section § 31.17 be repealed in its entirety and amended with a new section to be numbered §31.17 which shall read as follows:

§31.17. PURCHASING AGENCIES.

(A) The purchasing agencies for the municipality are as follows:

- (1) The Town Council as the Works Board of the Municipality, shall serve as purchasing agency for the Municipality and its executive departments except those executive departments which are expressly subject to the purchasing authority of a relevant governing board of jurisdiction. The departments subject to the jurisdiction of the Works Board include any department which is not otherwise subject to another board of jurisdiction and the following:
- (2) Public Works Department;
- (3) Metropolitan Police Department;
- (4) Building and Inspection Department;
- (5) Fire Department;
- (6) ~~Emergency Medical Service Department~~
- (7) Office of the Town Council
- (8) ~~Office of the Town Manager~~
- (9) Office of the Clerk-Treasurer

(B) The Town Council, as Works Board of the Unit may act in the stead of the Board of Directors of the Waterworks and the Board of Sanitary Commissioners when any purchase involves materials or supplies that will be purchased at a shared cost or will be jointly used by the civil government and the utilities. In such cases, the purchasing agent should communicate any agency action to the other affected agencies for concurrence and ratification by the boards of jurisdiction.

(C) The Park and Recreation Board shall serve as purchasing agency for the Parks and Recreation Department and its special taxing district.

(D) The Board of Waterworks Directors shall serve as purchasing agency for the Waterworks Department, its special taxing district and utility.

(E) The Board of Sanitary Commissioners shall serve as purchasing agency for the Public Sanitation Department, its special taxing district and utility.

(F) The Redevelopment Commission shall serve as purchasing agency for the Redevelopment Department and its special taxing district.
(Ord. 1089, passed 6-22-98)

Section 2. That Section § 31.19 be repealed in its entirety and amended with a new section to be numbered §31.19 which shall read as follows:

§ 31.19 DUTIES AND RESPONSIBILITIES OF PURCHASING AGENTS.

(A) The purchasing agents for the municipality shall act pursuant to the provisions of I.C. 5-22, this enactment and any rules or policies of the purchasing agency not in conflict with the public purchase statute or ordinances of the municipality;

(B) (1) Subject to the provisions of § 31.18, purchasing agents for the municipality are authorized to enter into agreements in support of the following types of purchases without additional approval of the purchasing agencies:

- (a) Leases or rental agreements which are one year or less in duration and which do not exceed \$10,000 in value;
- (b) Contracts for supplies or services which are one year or less in duration and which do not exceed \$10,000 in value.

(2) Nothing in this division shall be construed in derogation of or in limitation to the exercise of powers and duties of the municipal fiscal officer expressly conferred under I.C. 5-11, I.C. 5-13, and I.C. 36-5.

(C) In addition to the foregoing, purchasing agents shall:

(1) Receive requisitions of materials from their respective departments or offices and upon their receipt, determine that appropriations are available for such purposes, and acquire the items requisitioned in accordance with the public purchase law and this code. All contracts of purchase shall be made in the name of the municipal department, division or office and be subject to the approval of the department or office.

(2) Establish such purchasing and contractual procedures as may best be suited to obtain the optimal economic value to the municipality.

(3) Prepare specifications and notices and see that the required notices are published, where bidding and publication of notices are required by law.

(4) Cooperate and consult with the municipal fiscal officer for the purpose of ensuring that adequate funds are available prior to making the necessary purchases and acquisitions to assure they are within the limits of the budget appropriations of department or division in need of the material.

(5) Act when required to sell or exchange any personal property ordered to be sold by a municipal department or office in accordance with procedures prescribed by law.

(D) The following persons shall serve as purchasing agents for the department or office indicated:

- (1) The Public Works Director or his/her designee for the Public Works Department.
- (2) The Police Chief or his/her designee for the Metropolitan Police Department.
- (3) The Building Commissioner/Chief Inspector or his/her designee for the Building and Inspection Department.
- (4) The Fire Chief or his/her designee for the Fire Department.
- ~~(5) The Fire Chief or his/her designee for the Emergency Medical Services Department.~~
- (5) The Redevelopment Director or his/her designee for the Redevelopment Department.
- (6) The Public Works Director as Waterworks Superintendent or his/her designee for the Waterworks Department.
- (7) The Public Works Director as Wastewater (Sewageworks) Superintendent or his/her designee for the Public Sanitation Department.
- (8) The Parks and Recreation Superintendent or his/her designee for the Parks and Department.
- (9) The Clerk-Treasurer or his/her designee for the Office of the Clerk-Treasurer, for any department or office for which an agent is not otherwise expressly provided, and for all executive departments of the municipality.
- ~~(11) The Town Manager or his/her designee for the Office of the Town Council, Office of the Town Manager, for any department or office for which an agent is not otherwise expressly provided and for all executive departments of the municipality. (Ord. 1300 adopted 9 Jan 2006)~~

Section 3. That subsections (A) through (H) of Section § 31.20 be repealed in its entirety and amended with new subsections to be identified as subsections (A) through (H) of Section § 31.20 which shall read as follows:

§ 31.20 RULES REGARDING PURCHASING OF MATERIALS AND SUPPLIES.

(A) Rules regarding offers; status of documents as public records.

(1) Protection of offers prior to opening. The purchasing agent shall retain all offers received in a secure location prior to the date and time at which offers will be opened in order to prevent disclosure of the contents prior to the opening of the offers.

(2) Unobstructed evaluation of offers. After offers have been opened, the purchasing agent shall be responsible for maintaining the offers in such a manner as to permit evaluation of the offers by the persons responsible for evaluating the offers.

(3) Public records status of bids. Bids submitted in response to an invitation for bids must be available for public inspection and copying after the time of the bid opening.

(4) Register of proposals. The purchasing agent shall prepare a register of proposals for each request for proposals issued which shall contain information concerning the proposals available for public inspection and copying. Proposals may not be disclosed.

(B) Rules regarding offers; discussions with offerors responding to a request for proposals. The purchasing agent may conduct discussions with, and best and final offers may be obtained from, responsible offerors who submit proposals determined to be reasonably susceptible of being selected for a contract award.

(C) Rules regarding offers; delay of opening of offers. When the purchasing agency makes a written determination that it's in the municipality's best interest, offers may be opened after the time stated in the solicitation. The date, time and place of the rescheduled opening must be announced at the time and place of the originally scheduled opening.

(D) Rules regarding evidences of financial responsibility.

(1) Purchases less than ~~\$25,000~~ **\$50,000**. The purchasing agent may not require evidence of financial responsibility when the estimated cost of a purchase is less than ~~\$25,000~~ **\$50,000**.

(2) Purchases between ~~\$25,000~~ **\$50,000** and ~~\$100,000~~ **\$150,000**. The solicitation may include a requirement that an offeror provide evidence of financial responsibility. If evidence of financial responsibility is required, the solicitation must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

(3) Purchases over ~~\$100,000~~ **\$150,000**. The solicitation shall include a requirement that an offeror provide evidence of financial responsibility and must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

(4) Small business set-asides. The purchasing agent may determine that no evidence of financial responsibility shall be required for a small business set-aside purchase.

(E) Purchase of supplies manufactured in the United States. Supplies manufactured in the United States shall be specified for all municipal purchases and shall be purchased unless the municipality determines that:

(1) The supplies are not manufactured in the United States in reasonably available quantities;

(2) The prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

(3) The quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere;

(4) The purchase of supplies manufactured in the United States is not in the public interest.

(F) Use of quotes for purchases of materials and supplies valued at least at ~~\$25,000 but not more than \$75,000~~ **\$50,000 and not more than \$150,000**.

(1) If a purchasing agent expects the purchase to be at least ~~\$25,000 and not more than \$75,000~~ **\$50,000 and not more than \$150,000**, the purchasing agent may purchase supplies by inviting quotes from at least three persons known to deal in the lines or classes of supplies to be purchased.

(2) The purchasing agent shall mail an invitation to quote at least seven days before the time fixed for receiving quotes.

(3) If the purchasing agent receives a satisfactory quote, the purchasing agent shall award a contract to the lowest responsible and responsive offeror for each line or class of supplies required.

(4) The purchasing agent may reject all quotes.

(5) If the purchasing agent does not receive a quote from a responsible and responsive offeror, the purchasing agent may purchase the supplies under provisions of I.C. 5-22-10-10.

(G) Small purchases valued at less than ~~\$25,000~~ **\$50,000**. If a purchasing agent expects the purchase to be less than ~~\$25,000~~ **\$50,000**, the purchasing agent may purchase supplies either:

(1) By inviting quotes from at least three persons known to deal in the lines or classes of supplies to be purchased; or

(2) By purchase in the open market without inviting or receiving quotes.

(H) Purchases valued at more than ~~\$75,000~~ **\$150,000**.

(1) A purchasing agent shall follow the procedure described in this division in awarding a contract for supplies, unless another purchasing method is required or authorized by law.

(2) A purchasing agent shall issue an invitation for bids. An invitation for bids must include a purchase description; all contractual terms and conditions that apply to the purchase; and a statement of the evaluation criteria that will be used, including any of the following:

- (a) Inspection.
- (b) Testing.
- (c) Quality.
- (d) Workmanship.
- (e) Delivery.
- (f) Suitability for a particular purpose.
- (g) The requirement imposed under I.C. 5-22-3-5.
- (h) The time and place for opening the bids.
- (i) A statement concerning whether the bid must be accompanied by a certified check or

other evidence of financial responsibility that may be imposed in accordance with rules or policies of the governmental body.

(j) A statement concerning the conditions under which a bid may be canceled or rejected in whole or in part as specified under I.C. 5-22-18-2.

(3) Evaluation criteria that will affect the bid price and be considered in the evaluation for an award must be objectively measurable.

(4) Only criteria specified in the invitation for bids may be used in bid evaluation.

(5) The purchasing agency shall give notice of the invitation for bids in the manner required by I.C. 5-3-1.

(6) The purchasing agency shall open bids publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids.

(7) Bids must be:

(a) Unconditionally accepted without alteration or correction, except as provided in I.C. 5-22-7-11 through 5-22-7-13; and

(b) Evaluated based on the requirements provided in the invitation for bids.

(8) A contract must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder.

(9) The purchasing agency shall maintain the following information which is subject to public inspection after each contract award:

- (a) The name of each bidder;
- (b) The amount of each bid;
- (c) Other information required by I.C. 5-22, and ordinances and rules adopted pursuant to I.C. 5-22.

(10) The governmental body may adopt rules or establish policies to allow any of the following: after award.

(a) Correction or withdrawal of inadvertently erroneous bids before or after award.

(b) Cancellation of awards or contracts based on a mistake described in subdivision (a)

(11) Except as provided in a rule or policy, a purchasing agency must make a written decision to permit the correction or withdrawal of a bid; or cancel awards or contracts based on bid mistakes.

(12) After bid opening, a purchasing agency may not permit changes in bid prices; or other provisions of bids prejudicial to the interest of the governmental body or fair competition.

(13) If a bidder inserts contract terms or bids on items not specified in the invitation for bids, the purchasing agent shall treat the additional material as a proposal for addition to the contract and may do any of the following:

(a) Declare the bidder non responsive;

(b) Permit the bidder to withdraw the proposed additions to the contract in order to meet the requirements and criteria provided in the invitation for bids;

(c) Accept any of the proposed additions to the contract, subject to this subdivision.

(14) The purchasing agent may not accept proposed additions to the contract that are prejudicial to the interest of the governmental body or fair competition. Further, a decision of the purchasing agent to permit a change to the requirements of the invitation for bids must be supported by a written determination by the purchasing agency.

Section 4. That an emergency exists for the immediate taking affect of this Ordinance, which, subject to the provisions of this ordinance, shall become effective and shall remain in full force and effect from and after the date of its passage and adoption, pursuant to any effective dates herein described and until its repeal or amendment by subsequent enactment;

Introduced and Filed on the 27th day of August 2012. Consideration on same day or same meeting of introduction sustained a vote of 5 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 27th Day of August 2012, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

- 3. Works Board Order No. 2012-29:** An Order Approving and Authorizing the Metropolitan Police Chief to Purchase from Fox Valley Technical College of Appleton, Wisconsin five (5) day Evidence Technician Training to be held in Highland, Indiana on March 19 – 23, 2012, pursuant to I.C. 5-22.

Councilor Novak moved seconded by Councilor Vassar, the passage and adoption, of Works Board Order No. 2012-29. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

**Town of Highland
Board of Works
Order of the Works Board 2012-29**

An Order Approving and Authorizing the Metropolitan Police Chief to Purchase from Fox Valley Technical College of Appleton, Wisconsin five (5) day Evidence Technician Training to be held in Highland, Indiana on March 19 – 23, 2012, pursuant to I.C. 5-22.

Whereas, The Town of Highland Metropolitan Police Department, as part of its public duties, has a responsibility for patrol, public safety and protection of life and property throughout the Town of Highland and, from time to time, it is necessary to purchase and or lease materials and supplies in order to carry out the functions of the department; and

Whereas, The Metropolitan Police Chief has identified Fox Valley Technical College of Appleton, Wisconsin to be the only vendor that offers this unique course in Evidence Technician Training at a price of \$19,200.00 (\$800.00 per student enrolled in the training).

Whereas, The price for the purchase exceeds \$10,000.00 and, pursuant to §31.18(c) as well as §31.19(B) (1) (b) of the Highland Municipal Code requires the express approval of the purchasing agency; and

Whereas, The Town Council as the Works Board of the Municipality, pursuant to §31.17(A)(3) of the Highland Municipal Code serves as the purchasing agency for the Metropolitan Police Department; and

Whereas, The Metropolitan Police Chief, pursuant to §31.19(D)(2) of the Highland Municipal Code, serves as the Purchasing Agent for the Metropolitan Police Department; and

Whereas, The Purchasing Agent, pursuant to §31.20(G) of the Highland Municipal Code, expected that the purchase would not be in excess of \$25,000.00 and therefore, would like to purchase in the open market in accordance with §31.20(G) of the Highland Municipal Code; and

Whereas, The purchase of this Evidence Technician Training will be supported by the Safe Neighborhood Grant, Fund #87, Project 15.

Whereas, The Town Council now desires to approve and authorize the Police Chief to complete the purchase pursuant to the terms and stated herein.

Now, Therefore Be It Ordered by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board of Municipality:

Section 1: That the Works Board hereby finds and determines that the purchase as an individual purchase represents a duly executed small purchase pursuant to IC 5-22 and §31.20(G)(2) of the Highland Municipal Code;

Section 2. That the terms and charges for the evidence training or in the unit amount of eight hundred dollars and 00/100 cents (\$800.00) per enrolled, in the total amount of nineteen thousand, two hundred dollars (\$19,200), is found to be reasonable and fair

Section 3: That the Metropolitan Police Chief is now authorized and approved to execute the purchase agreement and any additional documents in order to implement this purchase and then file these documents as financial materials with the Office of the Clerk-Treasurer, pursuant to IC 36-5-4-14.

Be It So Ordered.

DULY, PASSED, ADOPTED AND ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 27th day of August 2012 having passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL OF THE
TOWN OF HIGHLAND, INDIANA

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

4. **Works Board Order No. 2012-30:** A Resolution Accepting and Approving a Settlement with Ms. Jamie Kowal, 8806 Woodward Avenue, for the Damages incurred due to a Storm Sewer Backup that Occurred on October 8, 2011 and Determined to be caused by the Capping an Existing building Sewer during the Construction of the Woodward Avenue Reconstruction Project.

Councilor Vassar moved seconded by Councilor Kuiper, the passage and adoption, of Works Board Order No. 2012-30. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

**The Town of Highland
Order of the Works Board No. 2012-30**

A RESOLUTION ACCEPTING AND APPROVING A SETTLEMENT WITH MS. JAMIE KOWAL, 8806 WOODWARD AVENUE, FOR THE DAMAGES INCURRED DUE TO A STORM SEWER BACKUP THAT OCCURRED ON OCTOBER 8, 2012 AND DETERMINED TO BE CAUSED BY THE CAPPING AN EXISTING BUILDING SEWER DURING THE CONSTRUCTION OF THE WOODWARD AVENUE RECONSTRUCTION PROJECT

Whereas, The Town of Highland, through its Town Council, which is the Works Board of the Municipality pursuant to I.C. 36-1-2-24(3), has heretofore authorized and approved a public works project for street reconstruction and other improvements in the public roadway of Woodward Avenue, with the project commonly known as the Woodward Avenue Reconstruction Project; and

Whereas, On October 4, 2011, during the construction of the Woodward Avenue Reconstruction Project, the contractor had exposed a sewer pipe during the installation a storm sewer within the right-of-way of Woodward Avenue; and

Whereas, After a brief investigation by the Project Engineer, Garcia Consulting, the pipe was determined to be abandoned and the contractor was instructed to cap the pipe and to continue with the work; and

Whereas, On or about October 8, 2011, a rain event occurred and, subsequently, the property owner, Ms. Jamie Kowal, 8806 Woodward Avenue experienced a stormwater backup into the basement of the home, which cause damage to the carpeting requiring its replacement; and

Whereas, Subsequent video inspection of the building (storm) sewer determined that the pipe was connected to the downspouts at the 8806 Woodward Avenue and revealed that the pipe had been capped at, or approximate to, the property line and construction notes confirmed that a pipe had been abandon several days previous; and

Whereas, The contractor immediately corrected the problem and reconnected the building (storm) sewer to the existing storm sewer on Woodward Avenue; and

Whereas, Ms. Jamie Koval, 8806 Woodward Avenue had presented a claim for damages incurred in the replacement of the carpeting at the home in the amount of One Thousand Two Hundred eighty-one Dollars and 12/100 Cents, citing that the damages were caused by the inadvertent capping of the building sewer; and

Whereas, Upon review and investigation of the claim for damages presented by Ms. Kowal, it has been determined and mutually agreed upon by the parties involved, that the damages were caused, in part, by the lack of diligence exercised in determining the origin of the unidentified pipe on the date and time it was discovered; and

Whereas, It had been mutually agreed to by the parties involved, that the Town of Highland and Garcia Consulting would contribute, in equal shares, an amount totaling 100% of the damages reported by Ms. Kowal as settlement in the matter; and

Whereas, Upon the execution of a Release, prepared by the Town Attorney, attached hereto and made part of this resolution, the Town of Highland and Garcia Consulting each wish to compensate Ms. Jamie Kowal Six Hundred Forty Dollars and 56/100 Cents (\$640.56) for a total \$1,281.12, in full settlement of the claim; and,

Whereas, IC 36-1-4-17, the municipality may compromise claims as part of its general corporate powers,

Now Therefore Be it hereby Ordered by the Town Council of the Town of Highland, Lake County, Indiana;

Section 1. That the amount of the settlement for damages for the replacement of carpeting in the home of Ms. Jamie Kowal, 8806 Woodward Avenue, Highland, Indiana in the amount of \$1,281.12 is reasonable and fair, as evidenced by receipts presented by the claimant, are hereby approved;

Section 2. That the amount of the settlement shall be shared in equal portions between the Town of Highland and Garcia Consultants;

Section 2. That upon the faithful execution of a Release by Ms. Jamie Kowal, Ms. Kowal shall be paid in equal shares (\$640.56)) by the Town of Highland, and Garcia Consultants, Inc.

Be it So Ordered.

Duly Passed and Ordered by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 27th day of August, 2012 having passed by a vote of 5 in favor and 0 opposed.

**Town Council of the Town of
Highland, Indiana**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk Treasurer (IC 33-16-4-1; IC 36-5-6-5)

- 5. Works Board Order No. 2012-31:** An Order Finding and Determining Certain Personal Property of the Municipality as No longer needed or Unfit for the Purposes for which originally acquired and further Authorizing and Approving the Disposal of said property, as provided by IC 5-22-22-3 (2).

Councilor Herak moved seconded by Councilor Novak, the passage and adoption, of Works Board Order No. 2012-31. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

**THE TOWN of HIGHLAND
BOARD of WORKS ORDER NO. 2012-31**

AN ORDER FINDING and DETERMINING CERTAIN PERSONAL PROPERTY of the MUNICIPALITY as NO LONGER NEEDED or UNFIT for the PURPOSES for WHICH ORIGINALLY ACQUIRED and FURTHER AUTHORIZING and APPROVING THE DISPOSAL of said PROPERTY, AS PROVIDED BY IC 5-22-22-3 (2).

WHEREAS, The Town Council for the Town of Highland is the Works Board of the Municipality pursuant to IC 36-1-2-24(3) and

WHEREAS, The Town Council has been advised by the proper officers that there are items of personal property owned by or in the possession of the municipality for at least one (1) year or longer that either are no longer needed or unfit for the purposes originally acquired; and

WHEREAS, The proper officers have recommended that the disposal of the personal property be authorized and further that no advertisement is required as the individual value of each item is less than one thousand dollars (\$1,000) and the total value of said items is less than five thousand dollars (\$5,000) as required by I.C. 5-22-22-6 (2); and

WHEREAS, The proper officers have further recommended that a disposal of the personal property be authorized, all pursuant to the provisions of IC 5-22-22 et seq. but that the fee be authorized and fixed; and

WHEREAS, The Town Council now desires to favor the recommendation and take those steps necessary to authorize and approve the sale of this certain personal property of the municipality to the general public, pursuant to the applicable law,

NOW, THEREFORE, BE IT ORDERED by the Town Council of the Town of Highland, Lake County, Indiana:

Section 1. That the Town Council of the Town of Highland hereby finds and determines the following:

(a) That the eleven (11) table top books entitled *Northwest Indiana Regionality: Sand, Steel and Soul*, particularly acquired in consequence of the Municipality's participation in a media promotion with the TIMES Media organization, are articles of personal property, owned by the municipality that are no longer needed or unfit for the purposes for which they were intended;

(b) That each article of personal property has an individual estimated value of **less than** one thousand dollars (\$1,000); and

(c) That these articles of personal property together have a total estimated value of **far less than** five thousand dollars (\$5,000);

Section 2. That the proper officers of the municipality are hereby authorized and instructed to cause a lawful disposal of the personal property identified in this Order, by lawful method, without advertising, pursuant to IC 5-22-22-6;

Section 3. That the proper officers of the municipality are authorized and directed to transfer or dispose of one of books of the particularly described personal property, for no fee to the **Highland Historical Society**;

Section 4. That the proper officers of the municipality are authorized to transfer or dispose of the remaining ten (10) books of the particularly described personal property, for a fee of thirty dollars each (\$30), and are further directed to deposit the proceeds of any disposal or transfer to the credit of the *Corporation General Fund*;

Section 5. That the transfer and disposal continue according to the terms of this order until the inventory exhausted;

Section 6. That the proper officers be authorized and instructed to execute this purposes and objects of this order, upon its passage and adoption.

BE IT SO ORDERED.

DULY ADOPTED and ORDERED BY the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 27th day of August 2012 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**
Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

6. Resolution No. 2012-37: A Resolution Articulating the Sense of the Town Council Favoring the Designation of a Purple Heart Trail in the Town of Highland.

Councilor Kuiper moved seconded by Councilor Vassar, the passage and adoption, of Resolution No. 2012-37. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

**HIGHLAND TOWN COUNCIL
Resolution No 2012-37**

A RESOLUTION ARTICULATING THE "SENSE OF THE TOWN COUNCIL" FAVORING THE DESIGNATION OF A PURPLE HEART TRAIL in the TOWN of HIGHLAND

WHEREAS, The Highland Town Council, as the fiscal and legislative body of the Town of Highland, from time to time, encounters issues of public import and moment which invite an expression from the elected representatives as part of the public discourse on the matter;

WHEREAS, Article 1, Section 31 of the Indiana Constitution provides that no law shall restrain any of the inhabitants of the State from assembling together in a peaceable manner, to consult for their common good, nor from instructing their representatives, nor from applying to the General Assembly for redress of grievances; and

WHEREAS, It is fitting and proper to never forget those who have given their lives and shed their blood in defense of this great nation; and

WHEREAS, A *Purple Heart Trail* system is already well established throughout a very large portion of the American Interstate Highway System and the US designated highway system in the lower 48 states, as well as highways in Alaska, Guam and Puerto Rico;

WHEREAS, Highland, Indiana is geographically located in an area that is part of the Nationwide Purple Heart Trail system and will add credence to those dedicated routes, and

WHEREAS, Highland, Indiana should be proud to join this worthy effort in providing America with the ability to establish this *Purple Heart Trail* all across America; and

WHEREAS, The placement of signs indicating "*Purple Heart Trail*" will simply indicate a part of a nationally existing system, which is favored to the extent it is not proscribed by IC 9-21-1-4; and

WHEREAS, The establishment of the Purple Heart Trail within Highland, Indiana will in no way change the name of numerical designation of US 41; and

WHEREAS, US 41 is the best choice to establish and continue the Purple Heart Trail into the confines of the Town of Highland; and,

WHEREAS The Town of Highland by and through its elected officers wishes to offer a distinct, public expression on the public import of this matter,

BE IT HEREBY RESOLVED that it the sense of the Town Council that the Town of Highland, Indiana designate US Route 41 within its Town Limits as part of the Nationwide *Purple Heart Trail System*; and

BE IT FURTHER RESOLVED that it the sense of the Town Council that in order to inform all travelers a sign designating the purpose for The Purple Heart Trail be placed at strategic locations such as entering and leaving our Community, to the extent it is not proscribed by IC 9-21-1-4.

DULY RESOLVED and ADOPTED this 27th Day of August 2012 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**
Bernie Zemen, **President** (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

7. Action to approve appointment or employment of full-time employee, pursuant to Section §3.03 of the Compensation and Benefits Ordinance.

7.1 The Public Works Director recommends approval for the hire of Dennis Pizzuto to the position of Utility Worker B at the rate of pay of \$10.77 per hour plus benefits.

Councilor Novak moved, seconded by Councilor Vassar the appointment and hire of Dennis Pizzuto as recommended by the Public Works Director. Upon a roll call vote, there are five affirmatives and no negatives. The motion passed. The hire was approved.

8. Action to approve pay for employee at higher than starting pay for the range of the position, pursuant to Section 2 (a) of Ordinance No. 1511 the Wage and Salary Ordinance, as amended.

8.1 The Public Works Director requests favorable action for J. Casner and R. Mason, both part-time laborers, for which the pay range is \$7.25 to \$12.50, to be approved at the starting hourly rate of \$9.00. The position is Laborer (non Truck driver part-time).

Councilor Kuiper moved, seconded by Councilor Vassar to approve pay for the named employees at the higher than starting pay rate of \$9.00 per hour as requested by the Public Works Director. Upon a roll call vote, there are five affirmatives and no negatives. The motion passed. The hire was approved.

9. Proposed Ordinance No. 1520: An Ordinance to Amend Chapter 190 of the Highland Municipal Code Regarding the Department of Waterworks by Amending Section §190.11 regarding Rates and Charges, all pursuant to I.C. 36-1-4, IC 36-1-5, IC 8-1.5-3-8.1 and IC 8-1.5-4 et sequitor. *(Cannot be acted upon before a public hearing)*

Waterworks Board of Directors recommends to the Town Council these reasonable, just, non-discriminatory and redesigned rates and charges for the operation of the water utility. At its meeting of Thursday, August 23, 2012, the Board approved these rates and charges contained in the ordinance as proposed. These were determined following a rate and cost of service study. The last general rate increase was approved November 1990.

Councilor Herak introduced and filed the proposed ordinance. There was no further action pursuant to IC 8-1.5-3-8.1(c) and Section § 190.07(H)(4) of the Municipal Code. The matter was set for a public hearing at the Town Council meeting of September 10, 2012.

10. **Authorize the proper officer to publish a notice for proposed additional appropriations in the Sanitary District Special Public Safety Fund in the amount of \$3,724.00 and in the Sanitary District Cooperative Equipment Fund in the amount of \$31,591.76.**

Councilor Herak moved, seconded by Councilor Novak, the approval and authorization for the proper officer to publish legal notice as indicated. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed the notice and hearing were authorized.

11. **Resolution No. 2012-38: An Exigent Resolution Providing For The Transfer Of Appropriation Balances From And Among Major Budget Classifications In The Metropolitan Police Department Of The Corporation General Fund As Requested By The Proper Officer And Forwarded To The Town Council For Its Action Pursuant to IC 6-1.1-18-6.**

Councilor Novak moved, seconded by Councilor Kuiper that Resolution No. 2012-38 be passed and adopted. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN OF HIGHLAND
APPROPRIATION TRANSFER RESOLUTION
RESOLUTION NO. 2012-38**

AN EXIGENT RESOLUTION PROVIDING for the TRANSFER of APPROPRIATION BALANCES from and AMONG MAJOR BUDGET CLASSIFICATIONS in the METROPOLITAN POLICE DEPARTMENT of the CORPORATION GENERAL FUND as REQUESTED BY THE PROPER OFFICER AND FORWARDED to the TOWN COUNCIL for its ACTION PURSUANT TO IC 6-1.1-18-6.

WHEREAS, It has been determined that certain exigent conditions have developed since adoption of the original budget and it is now necessary to transfer certain appropriations into different categories than were initially appropriated for the various functions of the **Metropolitan Police Department of the Corporation General Fund**;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana as follows:

Section 1. That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

Section 2. That it has been shown that certain existing unobligated appropriations of the **Metropolitan Police Department of the Corporation General Fund** which are not needed at this time for the purposes for which originally appropriated, and may be transferred to a category of appropriation in order to satisfy an existing need, as follows:

CORPORATION GENERAL FUND

Town Hall Department

Reduce Account:	#111.25 Animal Warden	\$2,270.00
	Total 100 Series Reductions	\$2,270.00
Increase Account:	#220.01 Radio Supplies	\$2,270.00
	Total 200 Series Increases	\$2,270.00
Total of All Fund Decreases:		\$2,270.00
Total of All Fund Increases:		\$2,270.00
Total Net Increase to Fund:		\$ 0.00

DULY RESOLVED and ADOPTED this 27th Day of August 2012 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

12. **Works Board Order No. 2012-32:** An Order Acknowledging The Americans with Disabilities Act transition Compliance Plan and Authorizing and Approving An agreement between First Group Engineering, Incorporated and the Town of Highland to perform Engineering and Professional services in support of thereof.

Councilor Vassar moved, seconded by Councilor Kuiper that Works Board Order No. 2012-32 be passed and adopted. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

**The Town of Highland
Board of Works
Order of the Works Board No. 2012-32**

AN ORDER ACKNOWLEDGING THE AMERICANS WITH DISABILITIES ACT TRANSITION COMPLIANCE PLAN AND AUTHORIZING AND APPROVING AN AGREEMENT BETWEEN FIRST GROUP, INCORPORATED AND THE TOWN OF HIGHLAND TO PERFORM ENGINEERING AND PROFESSIONAL SERVICES IN SUPPORT OF THEREOF

Whereas, The Americans with Disabilities Act (ADA) enacted by the United States Congress on July 26, 1990, is a civil rights law prohibiting discrimination against individuals on the basis of disability. The ADA consists of five titles outlining protections in the following areas: (1) Employment; (2) State and local government services; (3) Public accommodations; (4) Telecommunications; and (5) Miscellaneous Provisions;

Whereas, Title II of the ADA provides that, "...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." (42 U.S.C. Sec. 12132; 28 C.F.R. Sec. 35.130);

Whereas, Title II of the ADA requires that all affected entities conduct self-evaluation of its facilities and services in support of developing a "Transition Plan" detailing how an entity will ensure that all of its facilities, services, programs and activities are accessible to all individuals;

Whereas, The Town has heretofore determined that a need exists to engage professional engineering services to augment organizational capacity and to assist the Town of Highland to comply with the requirements of the Act;

Whereas, First Group Engineering, Incorporated, (Consultant) has offered and presented an agreement to provide and furnish engineering and professional services detailed and specifically described in part as a review of existing policies, assembling a formal Transition Plan and related tasks outlined in the agreement in consideration for fees to be charged and billed monthly based upon a lump sum of the value of the services completed and described in a special schedule in a total amount not to exceed *forty-four thousand, dollars and no cents (\$44,000.00)*; and

Whereas, The Building Commissioner as ADA Coordinator, has favorably recommended the selection of First Group Engineering for this project and there are sufficient and available appropriations balances on hand to support the payments under the agreement, pursuant to IC 5-22-17-3(e); and

Whereas, The Town of Highland, through its Town Council acting as the Works Board now desires to accept and approve the agreement for services as herein described.

Now Therefore be it Ordered by the Town Council of the Town of Highland, Lake County, Indiana;

Section 1. That the Professional Engineering Agreement (incorporated by reference and made a part of this Order) between First Group Engineering, Incorporated, and the Town of Highland, for engineering and professional services detailed and specifically described in part as a review of existing policies, assembling a formal Transition Plan and related tasks, is hereby approved, adopted and ratified in each and every respect;

Section 2. That the terms and charges under the agreement and specifically described *in part* as review existing policies, develop design standards, identify barriers to access, complete a transition report, and related tasks outlined in the agreement for fees to be charged and billed monthly based upon a lump sum of the value of the services completed and described in a special schedule in a total amount not to exceed *forty-four thousand, dollars and no cents (\$44,000.00)* are found to be reasonable and fair;

Section 3. That the Town of Highland, through its Town Council, believes that First Group Engineering, Incorporated has demonstrated professional competence and qualifications to perform the particular professional engineering services called for in the Agreement and associated Federal Aid project, pursuant to *I.C. 5-16-11.1-5 and Section § 31.64 of the Highland Municipal Code*;

Section 4. That the Town Council President as well as the members of the Town Council be authorized to execute the Agreement with their signatures as attested thereto by the Clerk-Treasurer, and approved as to legality and form by the Town Council Attorney.

Be it so Ordered.

DULY, PASSED, ADOPTED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 27th day of August 2012 having passed by a vote of 5 in favor and 0 opposed.

**WORKS BOARD of the TOWN of
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**Comments from the Town Council Members
(For the Good of the Order)**

- **Councilor Mark Herak:** • *Budget and Finance Chair • Liaison to the Board of Sanitary Commissioners • Liaison to the Community Events Commission • Park and Recreation Board Liaison.*

Councilor Herak recognized the Parks and Recreation Superintendent who reported that steps were being taken to repave the Bike Trail, and then offered a cursory survey of programs and matters associated with the Parks and Recreation Department.

A colloquy ensued between Councilor Herak and the Parks and Recreation Superintendent regarding the retention area at the entrance to the Lincoln Community Center, its aesthetic and the standard of care for it as a retention basin employing natural growth as part of its effectiveness. Councilor Herak commented that in its current state it looks like weeds and that there is no care taken.

Councilor Herak recognized the Public Works Director who offered a cursory report regarding impacts from a recent rain event.

- **Councilor Dan Vassar:** • *Redevelopment Commission Liaison.*

Councilor Vassar recognized the Redevelopment Director who reported on the Façade Improvement program involving APEX Construction, located at the northwest corner of Highway and Kennedy Avenues. The Redevelopment Director also reported on the progress for Culver's Restaurant to be located at the southwest corner of Cline Avenue and Ridge Road.

With leave from the Town Council, Councilor Vassar and the Parks and Recreation Superintendent engaged in colloquy regarding the new pavilion at Markley Park and the need to protect some young grass recently planted.

- **Councilor Konnie Kuiper:** • *Fire Department, Liaison • Town Board of Metropolitan Police Commissioners Liaison • Chamber of Commerce Liaison.*

Councilor Kuiper complimented the Fire Chief and the Fire Department for its commitment to safety.

- **Councilor Brian Novak:** • *Advisory Board of Zoning Appeals, Liaison • Traffic Safety Commission Member • Northwestern Indiana Regional Planning Commission member • Lake County Solid Waste Management District Board Member.*

Councilor Novak congratulated the Town Council President on the wedding of his daughter, Laura the previous weekend.

- **Councilor Bernie Zemen:** *Town Executive • Chamber of Commerce Liaison • Police Pension Board Chairman • Plan Commission member • Liaison to the Board of Waterworks Directors*

Council President Zemen thanked Councilor Novak for his expression and expressed thanks to the Town Clerk-Treasurer for officiating the wedding.

Comments from the Public or Visitors

1. Mr. Erik Sprenne, 3118 Wirth Road, Highland, acknowledged his recent meeting with the Redevelopment Director to discuss the alternative design approach for the site of the former bridge at Indianapolis Boulevard, which is being reconstructed to eliminate the bridge, on a section between Ridge Road and 81st Street in Highland. Mr. Sprenne represented his pleasure with the meeting but would be seeking additional information.
2. Donna Kriner, representing Northwest Indiana Children's Cancer Awareness Group, expressed thanks to the Town Council President for his proclamation regarding the group's advocacy cause.

Payment of Accounts Payable Vouchers. There being no further comments from the public, Councilor Kuiper moved to allow the vendors accounts payable vouchers as filed on the pending accounts payable docket, covering the period August 14, 2012 through August 27, 2012 as well as the Payroll Dockets for the paydays of July 13, July 27 and August 10, 2012. Councilor Vassar seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The accounts payable vouchers for vendors as well as the payroll dockets were allowed and the Clerk-Treasurer was authorized to make payment. The payroll dockets were ratified.

Vendors Accounts Payable Docket:

General Fund, \$150,770.51; Motor Vehicle Highway and Street (MVH) Fund, \$10,251.08; Local Road and Streets Fund, \$13,669.54; Law Enforcement Cont. Education and Supply Fund, \$1,849.28; Corporation Bond and Interest Fund Exempt, \$62,418.06; Capital Projects Retainage Agency Fund, \$1,301.91; Corporation Bond and Interest Fund, \$31,587.50; Information and Communications Technology Fund, \$4,441.30; Civil Donation Fund, \$10,160.10; Special Events Non Reverting Fund, \$2,100.77; Police Pension Trust Fund, \$61,199.52; Municipal Cumulative Capital Development Fund, \$10,711.66; General Improvement Fund, \$12.00; Traffic Violations and Law Enforcement Agency Fund, \$7,531.00; Safe Neighborhood Grant Fund, \$21,865.00. Total: \$389,869.23.

Payroll Docket, payday of July 13, 2012:

Council Boards and Commissions, \$0.00; Office of the Clerk-Treasurer, \$12,262.60; Building and Inspection Department, \$7,321.25; Metropolitan Police Department, \$111,734.85; Fire Department, \$2,944.98; Public Works Department (Agency), \$61,701.83; and Police Pension Trust Fund (1925 Act), \$0.00; Total: \$195,965.51.

Payroll Docket, payday of July 27, 2012:

Council Boards and Commissions, \$8,179.00; Office of the Clerk-Treasurer, \$12,086.72; Building and Inspection Department, \$6,909.92; Metropolitan Police Department, \$103,020.85; Fire Department, \$22,716.89; Public Works Department (Agency), \$68,894.18; and Police Pension Trust Fund (1925 Act), \$61,064.89; Total: \$282,872.45.

Payroll Docket, payday of August 10, 2012:

Council Boards and Commissions, \$0.00; Office of the Clerk-Treasurer, \$11,817.80; Building and Inspection Department, \$7,135.52; Metropolitan Police Department, \$100,649.37; Fire Department, \$2,830.52; Public Works Department (Agency), \$61,699.68; and Police Pension Trust Fund (1925 Act), \$0.00; Total: \$184,132.89.

Adjournment. Councilor Novak moved that the plenary meeting be adjourned. Councilor Kuiper seconded. Upon a vote *viva voce*, the motion passed. The regular plenary meeting of the Town Council of Monday, August 27, 2012 was adjourned at 7:46 O'clock p.m. There was no study session following the meeting.

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM
Clerk-Treasurer